

March 29, 2019

Ms. Marie V. Brady
Ecotone Inc.
129 Industry Lane
Forest Hill, MD 21050

Re: Cold Bottom LLC Property at 1330 Western Run Road-Stream Restoration
Forest Buffer Variance
Tracking # 03-19-2946

Dear Ms. Brady:

This Department received a request for a variance from the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains on February 11, 2019. The request proposes to temporarily impact 3,961 linear feet of stream channel to restore two unnamed Use III-p tributaries to Western Run. These streams are presently degraded and flow through agricultural fields with little riparian buffer. This restoration proposes creating or enhancing a total of approximately 2.7 acres of wetland adjacent to the restored channels and planting 7.4 acres of riparian buffer. Horse riding trails are also proposed that are immediately adjacent to the restored stream and include three stream crossings.

This Department reviewed your request and has considered that the stream restoration is being done voluntarily and funded by a DNR Chesapeake and Atlantic Coastal Bays Grant. We have determined that a practical difficulty exists given that the stream restoration is not possible without stream and Forest Buffer impacts. Moreover, we recognize that requiring the full Forest Buffer Easement required by Section 33-3-111 of the Baltimore County Code would impact areas in which the landowner wishes to continue agricultural activities.

We have also determined that overall impacts to water quality will be minimized in the long term, as the proposed impacts are temporary and serve to provide a stable stream system. However, although the stream restoration would significantly improve water quality and habitat value of the stream system, the application states that no Forest Buffer Easement or similar protective perpetual easement would be recorded. Consequently, additional mitigative measures to adequately minimize the potential for impacts to water quality and aquatic resources as a result of this proposal will be necessary to meet this criterion.

Based on the findings above, we will grant this request in accordance with Section 33-3-106 (1) of the Baltimore County Code, with the following conditions:

1. ~~A Forest Buffer Easement and its Declaration of Protective Covenants shall be recorded by the right of way plat process prior to July 31, 2019.~~ The Forest Buffer ~~Easement~~ shall be 25 feet on each side of all restored stream channels or outer wetland boundary, whichever is greater. No further encroachment by agricultural or other land uses toward the other stream excluded from the subject restoration plan shall occur. The existing wooded buffer shall remain on that stream unless and until that stream is restored.
2. The proposed horse trails shall be constructed outside of the reduced Forest Buffer ~~Easement~~ except where crossings are necessary, at which points they shall cross as perpendicularly as possible to the stream. The width of the trail through the Forest Buffer ~~Easement~~ shall not exceed 10 feet and shall be constructed of pervious surface. Crossings shall be limited to the three proposed and shall clear span the stream. No culverts shall be used for the horse trails.
3. Areas of Forest Buffer ~~Easement~~ adjacent to livestock pastures or paddocks shall be permanently fenced off to prevent disturbance by the livestock.
4. The reduced Forest Buffer ~~Easement~~ shall be planted with native deciduous species of trees in accordance with an EPS-approved Forest Buffer Protection Plan (FBPP). The plan included with the variance request package proposes no tree stock larger than 2 feet high. At least 50% of the buffer planting must include container-grown tree stock at least 5-6 feet high at 200 stems per acre and adequately protected.
5. The following note must appear on all plans submitted for this project:

“A variance was granted by the Baltimore County Department of Environmental Protection and Sustainability from the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains on March 29, 2019. The Forest Buffer ~~Easement~~ shown hereon is reflective of this variance. Conditions were placed on this variance to reduce water quality impacts including riparian buffer planting onsite, protective fencing to exclude livestock, and recordation of the reduced Forest Buffer ~~Easement~~.”
6. Prior to grading permit approval, an Environment Agreement shall be executed.
7. The construction drawings (i.e. grading/erosion and sediment control and stream restoration plans) shall include the aforementioned final FBPP detailing the implementation of these approval conditions. This plan set shall be submitted to

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EPS staff for review and approval and must reflect the conditions of this variance approval. Additionally, these plans must meet all Maryland Department of the Environment (MDE) and U.S. Army Corps of Engineers (ACOE) requirements. EPS cannot approve the grading and ESC plans for this project until the final FBPP is approved.

8. Documentation of MDE and ACOE authorization of the restoration must be provided to EPS prior to issuance of any Baltimore County permit.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the owners sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens
Acting Director

DVL:ges

c. Mr. & Mrs. James & Gail Reipe, Property Owners

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I/we agree to the above conditions to bring my/our property into compliance with Law
for the Protection of Water Quality, Streams, Wetlands and Floodplains.

Property Owner's Signature

Date

Property Owner's Printed Name